

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of

Eligible Services List for Universal Service
Mechanism for Schools and Libraries

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CC Docket No. 02-6

COMMENTS OF TROPOS NETWORKS

Tropos Networks (Tropos) submits these comments addressing the draft eligible services list proposed by the Universal Service Administrative Company (Administrator) relating to the schools and libraries universal service support mechanism.¹ Tropos urges the Commission to remove the limitation imposed by the Administrator confining Internet Access service and equipment provided through wireless technology to the school or library property.

Tropos Networks

Tropos Networks, headquartered in Sunnyvale, California, provides wireless technology that delivers broadband access using unlicensed spectrum at 2.4 GHz. In over 350 deployments, Tropos technology is providing wireless broadband (>1Mbps) over large geographic areas. Its MetroMesh architecture provides efficient system planning and installation at substantial savings over legacy systems by eliminating costly backhaul and proprietary client devices. It maximizes user input and system capacity for advance applications encompassing voice and video. Portable wireless devices, now mass produced to operate in a Wi-Fi environment, are a significant element in reducing cost

¹ Pleading Cycle Established for Eligible Service List for Universal Service Mechanism for Schools and Libraries, FCC 06-109, CC Docket No. 02-6 (July 21, 2006).

and expanding consumer choice. Tropo's technology allows one physical network to be separated into multiple secure virtual segments for use by different customers.

With its partners, Tropo's technology has emerged as a facilities based broadband provider in a market that desperately needs competition. It is assisting communities create digital inclusion programs and improve educational and employment opportunities. Tropo is the technology provider to EarthLink in its Philadelphia, Anaheim and Pasadena projects and in the Google EarthLink San Francisco project. Tropo equipment in New Orleans, in place prior to Hurricane Katrina to support video surveillance, is being expanded in coverage and use.

The Administrator's Eligible Service List Addressing Wireless Internet Services Conflicts with Commission Rules and Policies

As in past years, the Administrator's eligible service list for schools and libraries states that wireless Internet Access service is eligible for support. It states however, that "a wireless Internet access service designed for portable electronic devices may be funded only if an auditable monitoring system is in place that provides a way to allocate between eligible and ineligible use. Operation outside of school or library grounds is not eligible."² Restricting use of portable devices to school or library grounds for activities "integral, immediate and proximate to the education of students, or in the case of library services, to library patrons library patrons" conflicts with the Commission's own rule, defies technology's innovation in providing more efficient broadband access, stifles the very broadband policies the Commission and Administration seek to promote and impedes technology's ability to assist schools and libraries.

² USAC Schools and Libraries: *Eligible Services List Schools and Libraries Support Mechanism for Funding Year 2007* at Page 11. (Attached to Public Notice).

The Administrator's policy seeking to ensure that USF support is confined to its statutory objective is sound. Imposing an audit responsibility and capability to verify that equipment and access costs receiving USF support is confined to education or library purposes serves the law's goal and the integrity of its administration. That purpose is not served by limiting portable device use to school or library property even though a device is capable of obtaining access beyond school or library grounds. As noted by comments submitted for Year 2006, it is the purpose of the information accessed that should govern, not where the access occurs.³ The Administrator's policy imposes an irony that cannot withstand scrutiny; a portable device cannot be used beyond the school or library property even though the information it affords access to is the same as that accessed on school or library property.

In the Commission's *Second Report and Order* implementing Section 254 of the Communications Act of 1934, as amended, the scope of services that encompass an educational purpose and were eligible for Universal Service Fund (USF) support was clarified. The Commission reiterated its recognition that the technology needs of participants in the schools and libraries program are complex and unique to each participant. It found that, in the case of schools, "activities that are integral, immediate, and proximate to the education of students," or in the case of libraries, "integral, immediate, and proximate to the provision of library services to library patrons", qualify as educational purposes under the program. It established a presumption that activities occurring in a library or classroom or on library or school property are integral, immediate, and proximate to the education of students or the provision of library services

³ See Comments of Sprint Nextel, CC Docket No. 02-6 dated August 25, 2005, Comments of State E-Rate Coordinator Alliance, CC Docket 02006, dated August 25, 2006.

to library patrons. The Commission recognized that in certain limited instances, the use of telecommunications services offsite would also be integral, immediate, and proximate to the education of students or the provision of library services to library patrons, and thus, would be considered to be an educational purpose.⁴ The Commission's parameters are set forth in its rules.⁵

The Commission's decision recognizes that off site access falls within education or library purpose. Use of devices by bus drivers, teachers or staff while on field trip or by librarians staffing a mobile library were recognized as legitimate purposes. By limiting portable devices to school or library property, the Administrator's rule ignores the fundamental need of teachers, staff, parents and students to access the schools website to gain information regarding subjects, scheduling and the range of other matters that are at the foundation of what schools and libraries do. Broadband allows the school or library to make its resources available, but the Administrator's rule precludes a portable device or wireless network to allow such. The Commission's Order stands for the contrary, devices and infrastructure are permissible offsite where access is integral, immediate and proximate to the education of the student or the provision of services to library patrons.

Tropos experience, in deploying its Wi-Fi networks to a range of government and commercial users has seen how the absence of proprietary devices and the lower costs of the network expands broadband access immeasurably. The Administrator's rules ignore how one network Wi-Fi device, the size of a breadbox and mounted on a school or

⁴ In the Matter of Schools and Libraries Universal Support Mechanism, *Second Report and Order and Further Notice of Proposed Rulemaking*, FCC 03-101, CC Docket 02-6 (April 30, 2003) at paragraphs 17-19.

⁵ Section 54.500(b) of the Commission's rules.

library property, can provide access far beyond that location, whether to laptop, handheld device or mobile phone. Wi-Fi technology is contributing significantly to productivity and delivers the benefits of broadband across all segments. The number of individuals able to access broadband increases exponentially. The type of device and where it is located should not preclude access to school or library information.

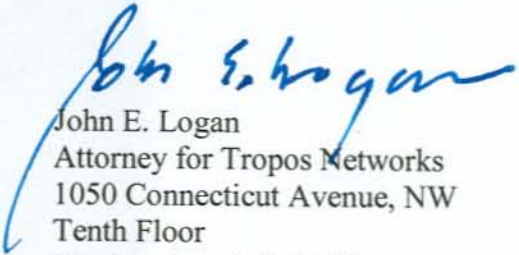
The Administrator's rule is also discriminatory, anticompetitive and contrary to the technology neutral principles the Commission embraces. Devices that are immobile and proprietary and cannot be removed from a school or library are favored. Yet mobile devices and networks that are at the core of innovation to provide cheaper broadband access are not. The potential for abuse should not deny access to those who abide by the standard- that devices and network access only be used for education or library purposes. The benefit to schools and libraries in cost savings and in broadening access to education and library resources will be substantial.

Tropos urges the Commission to revise the Administrator's rules with regard to portable wireless devices to comport with its own rules. Tropos recommends that the sentence "Operation outside of school or library grounds is not eligible." be removed from the Administrator's guidance with regard to wireless Internet access service and equipment.

Respectfully submitted,

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